



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Colsa, Inc.  
**File:** B-250662  
**Date:** February 11, 1993

Francisco J. Collazo and David J. Ball, Colsa, Inc., for the protester.  
Major Ronald K. Heuer, U.S. Army, for the agency.  
W.P. Albritton, Jr., Amtec Corp., interested party.  
V. Bruce Goddard, Esq., and Michael R. Volpe, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Protest that agency did not properly evaluate the relative strengths and weaknesses of proposals under a solicitation which provided for a relative evaluation of technical proposals is denied where the record shows that the agency did in fact assess strengths and weaknesses in its technical evaluation.
2. Protest that awardee improperly substituted personnel after award is untimely because it was raised in protester's comments to the agency report and protester knew of its basis of protest at the time it filed the protest.

### DECISION

Colsa, Inc., protests the award of a contract to Amtec Corporation under Request for Proposals (RFP) No. DAAH01-91-R-R005, issued by the Army Missile Command for an airborne system test and evaluation support effort. Colsa alleges that the Army failed to follow the evaluation and selection criteria set out in the solicitation.

The protest is dismissed in part and denied in part.

The solicitation identified three evaluation criteria, technical, cost and management in a formula giving technical a weight of 50 percent, cost 30 percent and management 20 percent. Colsa contends that although the solicitation called for technical considerations to be weighted much more heavily than cost, the Army's award decision did not properly weigh technical and the Army improperly awarded the contract to Amtec based on cost considerations. In this

regard Colsa contends that because Amtec's cost proposal was \$19,406,675 and Colsa's proposal was \$21,067,963, 8.6 percent higher, the Army made the award to Amtec based on price without a proper examination of technical merit.

In support of its allegation, Colsa states that at its debriefing the Army indicated there were no significant weaknesses in its proposal, the Army only identified advantages in its proposed technical effort, and the Army found that Colsa's proposal met the requirements in the management criterion. Colsa concludes from this that it had the best proposal when weighted against the solicitation's evaluation criteria. Colsa also contends that Amtec's post award hiring of four employees which Colsa had proposed for this contract shows that Colsa had offered higher caliber personnel.

The Army responds that Colsa's assumption that its proposal was technically superior is erroneous. The Army states that of seven proposals evaluated, three proposals, including Amtec's and Colsa's, were best rated but were found to be technically equal. Of these top rated technically equal proposals the Army chose Amtec's because its proposal offered the lowest price and hence the best value. With respect to Colsa's belief that its personnel were superior, the contracting officer stated that meeting minimum personnel and equipment requirements was a go/no-go aspect of the technical evaluation and each offeror satisfied these requirements.

In its response to the Army's report, Colsa reiterates that the Army deviated from the solicitation's evaluation criteria by failing to properly consider the technical and management criteria and by merely conducting a cost competition. In particular, Colsa points to the fact that all seven offerors were rated satisfactory in the management factor and concludes that this is evidence that the relative merits of the proposals were not considered. Colsa contends that the management criterion was considered on a go/no-go basis rather than on a relative weighted basis. Colsa argues that the Army thereby deviated from the solicitation's stated evaluation criteria by failing to give the management factor the 20 percent weight called for in the RFP.

Finally, Colsa states that Amtec's substitution of personnel was a "bait and switch" tactic. Colsa states that the substitution of personnel was a tacit acknowledgement that Amtec could not satisfy basic staffing requirements or that Amtec misrepresented the availability of proposed personnel.

The Army submitted a supplemental report in view of the issues raised in Colsa's comments. Comments on the Army's supplemental report were received from Colsa and Amtec.

Initially, we note that Colsa knew that several of its employees had been hired by Amtec at the time it filed its protest yet Colsa did not then protest this issue nor did Colsa state any rationale as to why Amtec's actions might be considered improper. Colsa merely stated in its protest that Amtec's hiring of Colsa personnel proved that Colsa had higher caliber personnel as an element of proof that Colsa had the better proposal. Colsa only protested Amtec's substitution of personnel when it filed its comments on the Army's report.

Colsa's late raised protest that Amtec improperly misrepresented which personnel it was proposing is untimely since a protest must be filed within 10 days after the basis of protest is known or should have been known. 4 C.F.R. § 21.2(a)(2); Luhr Brothers, Inc.--Reconsideration, B-248423.2, Nov. 9, 1992, 92-2 CPD ¶ \_\_\_\_\_. Our procedures do not contemplate a piecemeal presentation or development of protest issues. Pennsylvania Blue Shield, B-203338, Mar. 23, 1982, 82-1 CPD ¶ 272.

In any event, Amtec's substituted personnel could not have affected its relative standing in the evaluation if, as Army contends, personnel were evaluated on a go/no-go basis and the substituted personnel were qualified under the RFP. Colsa does not contend that the substituted personnel were unqualified, but does contend that the evaluation of personnel should have been on a relative basis. We do not agree. Section M of the solicitation stated that "in order to be considered for award, offerors must meet the minimum requirements for personnel". The RFP did not identify personnel as one of the subcriteria of the weighted management criterion nor did it identify personnel as one of the subcriteria of the weighted technical criterion. We agree with the Army therefore that the solicitation did not intend that personnel be considered under the weighted factors but rather personnel was to be evaluated on a go/no-go basis.

With respect to the evaluation of the management factor, the Army points to the evaluation record as evidence that it did in fact evaluate management on a relative basis as is called for in the solicitation. The Army's evaluation plan contemplated five adjectival ratings for the management as well as the technical criteria, excellent, very good, satisfactory, marginal and unacceptable. Evaluators were to provide written reasons for the ratings assigned. A consensus evaluation was to be arrived at through evaluation panel discussions. Section M of the solicitation broke the

management criterion into three subcriteria, prior experience, lines of local management and management structure, and management plan.

Our review of the evaluation documents shows that the evaluators not only recorded their reasons for their ratings of individual offerors under each of the subcriteria, but their ratings for each of the three subcriteria for management varied from offeror to offeror and from evaluator to evaluator. For example, although Amtec received an overall satisfactory rating in management from the panel, one panelist rated Amtec very good on two management subcriteria, prior experience and management plan, and satisfactory on one, lines of local management and management structure. With regard to the management plan, the evaluator stated that "all required characteristics were fully met by this proposal [and] substantiation of these criteria [is] very thorough, displays a complete understanding of the approach required in achieving good management". The same evaluator rated Colsa very good on one management subcriterion, prior experience, and rated Colsa satisfactory on the other two. As to management plan, the evaluator merely stated "that all required characteristics [are] met and fully substantiated". No disadvantages were noted for either Amtec or Colsa.

Ultimately the evaluation panel decided to give both Amtec and Colsa overall satisfactory ratings in the management criterion, but we do not think this shows that the evaluation was improperly conducted. The record shows that although the evaluation panel gave all of the offerors satisfactory ratings in management, the evaluators in fact conducted a relative evaluation and justified their ratings with written comments. The record provides no support for a conclusion that the evaluation panel unreasonably considered the proposals essentially equal. We have no basis to object to an evaluation of proposals merely because the Army concluded that several proposals were essentially equal. NES Government Services, Inc., B-248638.3, B-247111.4, Nov. 24, 1992, 92-2 CPD ¶ \_\_\_\_.

In any event, we do not see how Colsa could have been prejudiced by being rated satisfactory in management since Amtec received two very good ratings in the management subcriteria as opposed to Colsa receiving only one very good rating. If any change to the overall management evaluations were to have been made it would have been either to give Amtec a very good rating and Colsa a satisfactory rating or to give both Amtec and Colsa a very good rating. Whichever alternate decision might have been chosen, Colsa's management rating still would not have been better than Amtec's. Colsa, therefore, would not have been in a better position than it is now.

With respect to the evaluation of the technical criterion, the record shows that the Army evaluated three offerors' proposals, including Amtec's and Colsa's, as very good. Two other proposals were rated as satisfactory, and two were found to be marginal. As in the evaluation of the management criterion, the evaluators provided narrative comments to justify their ratings. Colsa simply misunderstands the results of the Army's evaluation. The evidence clearly shows that the Army conducted a relative evaluation of the technical criterion.

The protest is dismissed in part and denied in part.

*for Stephen Egan*  
James F. Hinchman  
General Counsel